

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
Civil Action No. 5:23-CV-00030**

**ALISON SCHULTZ, individually, and on
behalf of all others similarly situated,**

Plaintiff,

v.

Motion to Dismiss

PLANET AUTOMOTIVE GROUP, LLC,

Defendant.

NOW COMES Defendant Planet Automotive Group, LLC, and moves the Court to dismiss the Complaint against it pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiff's allegations indicate Planet Automotive Group, LLC is not a proper party to this lawsuit. As more fully explained in the accompanying memorandum of law, Planet Automotive Group, LLC is a separate entity from Planet Mitsubishi of Hickory, the entity that sent the text messages at issue, and thus Planet Automotive Group, LLC is not a proper party to this lawsuit.

During a phone call on or about April 27, 2023, the undersigned explained the difference in legal entities to counsel for Plaintiff, and that same day sent Counsel for Plaintiff a pdf of the North Carolina Secretary of State registration showing that Planet Mitsubishi Hickory is the assumed name for Planet Automotive Group Hickory, a separate entity from Planet Automotive Group, LLC. Despite being presented with documentation that Planet Automotive Group, LLC is not a proper party to this lawsuit, Counsel for Plaintiff declined to amend the lawsuit.

WHEREFORE, Defendant Planet Automotive Group, LLC respectfully prays as follows:

1. That Plaintiff's claims be dismissed in their entirety with prejudice;

2. That Plaintiff have and recover nothing from Defendant;
3. That the costs of this action be taxed against the Plaintiff;
5. For such other and further relief as the Court may deem just and proper.

This, the 22nd day of May, 2023

HULL & CHANDLER

By: /s/ Elizabeth Vennum
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Certificate of Service

This is to certify that on this date the undersigned filed the foregoing using the Court's CM/ECF system which will send notification of such filing to the following CM/ECF participants:

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This the 22nd day of May, 2023.

Hull & Chandler

By: /s/ Elizabeth Vennum
Elizabeth Vennum